

EXHIBIT 5

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17 **UNITED STATES DISTRICT COURT**

18 **DISTRICT OF NEVADA**

19 HYBE CO. LTD. f/k/a BIG HIT
20 ENTERTAINMENT CO. LTD., BIGHIT
21 MUSIC CO. LTD. and HYBE AMERICA INC.,

22 Plaintiffs,

23 v.

24 JOHN DOES 1-100, JANE DOES 1-100, and
25 XYZ COMPANIES 1-100, an individual,

26 Defendants.

27 CASE NO.: 2:22-cv-00510-JAD-EJY

28 **[PROPOSED] ORDER GRANTING
PLAINTIFFS' *EX PARTE* EMERGENCY
MOTION FOR TEMPORARY
RESTRANDING ORDER;
PRELIMINARY INJUNCTION; AND
ORDER OF SEIZURE**

29 Plaintiffs HYBE Co. Ltd. f/k/a Big Hit Entertainment Co. Ltd., BIGHIT MUSIC Co. Ltd.,
30 and HYBE America Inc. (collectively, "Plaintiffs"), moved for the entry of a Temporary
31 Restraining Order, an Order of Seizure, and thereafter a Preliminary Injunction Order, enjoining
32 Defendants John Does 1-100, Jane Does 1-100, and XYZ Companies 1-100, their true identities
33 being unknown, and all those acting in concert with defendants, from the unauthorized
34 manufacture, distribution, sale or holding for sale, of clothing, photographs, posters, stickers, and
35 other merchandise bearing the registered trademarks, service marks, names, likenesses, logos and
36 other indicia (collectively, the "Trademarks") of the musical group known as BTS (the "Artist"),
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1 pursuant to Fed. R. Civ. P. 65, LR 65-1, 15 U.S.C. § 1116(d), Nev. Rev. Stat. §§ 597.770 *et seq.*,
2 and Nevada common law. The Court, having duly considered Plaintiffs' Motion for Temporary
3 Restraining Order, Preliminary Injunction; and Order of Seizure (the "Motion"), the declarations
4 and exhibits submitted therewith, the pleadings and records on file herein, including any opposition
5 briefs and evidence presented by Defendant, and having received the oral argument of counsel
6 presented to this Court, hereby makes the following preliminary findings and conclusions:

7 1. By reason of the long, substantial and continuous use of the Artist's name, the said
8 name has acquired a meaning identified with the Artist and with products and services associated
9 with them;

10 2. The defendants, and those acting in concert or participation with them, have
11 infringed upon Plaintiffs and the Artist's rights in the Artist's Trademarks and rights of publicity,
12 and have as well committed acts of unfair competition against Plaintiffs and the Artist, by
13 manufacturing, distributing, offering for sale, and selling unauthorized merchandise bearing the
14 Artist's Trademarks (the "Bootleg Merchandise") at or near the sites of the Artist's concert
15 performances without having obtained a license or any other authorization to do so;

16 3. The said acts of the defendants, and those acting in concert or participation with
17 them, constitute a violation of the Lanham Act, 15 U.S.C. § 1125(a), in that they:

- 20 a. involve goods or services;
- 21 b. are activities which affect interstate commerce; and
- 22 c. are likely to cause confusion or deception as to the origin of the Infringing
23 Merchandise in that they falsely represent that such merchandise is made
by, sponsored by, or otherwise associated with the Artist or the plaintiff;

24 4. Defendants, and those acting in concert or participation with them, will continue to
25 sell such unauthorized Bootleg Merchandise in connection with the Artist's concert performances
26 unless restrained by order of the Court;

1 5. Immediate and irreparable injury, loss or damage will result to the Plaintiffs before
2 defendants can be identified and given notice and their attorneys can be heard in opposition to the
3 granting of the temporary restraining order, in that the defendants will manufacture, distribute, and
4 sell Bootleg Merchandise, and will continue to do so, and that, unless said defendants are enjoined
5 from said manufacture, distribution, and sale, Plaintiffs will suffer immediate and irreparable
6 injury and harm in the form of lost income, lessening and dilution of the value of the Artist's
7 Trademarks, interference with Plaintiffs' ability to exploit, market, and license their merchandising
8 rights respecting the Artist's Trademarks, confusion in the marketplace as to the duly authorized
9 source of the Bootleg Merchandise, and impairment of the goodwill Plaintiffs and their licensees
10 have in the Artist's Trademarks; and

11 6. A temporary restraining order should issue without notice because defendants'
12 identities will not be known until they are stopped, served with the order, and their goods are
13 seized, and that notice to defendants would threaten destruction of the disputed property, removal
14 of the disputed property beyond the Court's jurisdiction, or sale of the disputed property to an
15 innocent third party;

16 **IT IS HEREBY ORDERED** that defendants, various John Does, Jane Does, and XYZ
17 Companies, their true identities being unknown, shall appear before this Court, located at 333 Las
18 Vegas Boulevard South, Las Vegas, Nevada 89101, on _____, 2022, at
19 _____ a.m./p.m., or as soon thereafter as counsel can be heard, why an order should not be
20 entered, granting to Plaintiffs HYBE Co. Ltd. f/k/a Big Hit Entertainment Co. Ltd., BIGHIT
21 MUSIC Co. Ltd., and HYBE America Inc. (collectively, "Plaintiffs") a preliminary injunction
22 enjoining the defendants John Does 1-100, Jane Does 1-100, and XYZ Companies 1-100, their
23 true identities being unknown, and all those acting in concert with defendants, from the
24 unauthorized manufacture, distribution, sale or holding for sale, of clothing, photographs, posters,
25 stickers, and other merchandise (collectively, the "Bootleg Merchandise") bearing the registered
26 trademarks, service marks, names, likenesses, logos and other indicia (collectively the
27 "Trademarks") of the musical group known as BTS (the "Artist").

1 **IT IS HEREBY FURTHER ORDERED** that, pending a further hearing and
2 determination of the Motion, the defendants and their agents, servants, employees, attorneys,
3 successors, and assigns, and all persons, firms and corporations acting in concert with said
4 defendants, be and hereby are temporarily restrained and enjoined from manufacturing,
5 distributing, and selling the Bootleg Merchandise bearing the Artist's Trademark; and

6 **IT IS HEREBY FURTHER ORDERED** that the United States Marshal for this District,
7 the state and the local police, local deputy sheriffs, counsel for Plaintiffs, Plaintiffs'
8 representatives, and persons acting under the supervision of any of the foregoing persons, are
9 hereby authorized to seize and impound any and all Bootleg Merchandise bearing the Artist's
10 Trademark which defendants, or those acting in concert with defendants, attempt to sell or are
11 holding for sale in connection with the Artist's concert performances at Allegiant Stadium in Las
12 Vegas, Nevada and with officially licensed retail sites operating in connection therewith (including
13 any carton, container, or other means of carriage in which the Bootleg Merchandise is found), from
14 April 5, 2022 through April 17, 2022, and within a five (5) mile radius of Allegiant Stadium; and

15 **IT IS HEREBY FURTHER ORDERED** that such confiscated Bootleg Merchandise
16 shall be delivered to Plaintiffs' counsel or representatives, or their designees, pending final
17 disposition of this action; and

18 **IT IS HEREBY FURTHER ORDERED** that this temporary restraining order be and is
19 hereby conditioned upon Plaintiffs' filing with the Clerk of this Court an undertaking in the form
20 of a bond, check, or cash in the amount of \$_____, to secure the payment of costs and
21 damages, not to exceed such sum, as may be suffered or sustained by any party who is wrongfully
22 restrained hereby; and

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IT IS HEREBY FURTHER ORDERED that service of copies of this Order, together with the Summons and Complaint, be made upon the defendants by the United States Marshal, state or local police, local deputy sheriffs, or by any person over the age of eighteen (18) years not a party to this action selected for that purpose by the Plaintiffs, at the time any seizure provided herein is effectuated.

IT IS SO ORDERED:

UNITED STATES DISTRICT JUDGE

DATED: _____